

AG Contract No. KR03-0607TRN  
ECS JPA File No. 03-028  
Project: TEA-060-A(004) 060 MA  
TRACS No.: H6222 01C, 01D, 01L  
Section: US 60 Wickenburg Multi-Use Path

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
TOWN OF WICKENBURG

THIS AGREEMENT is entered into 21st July, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF WICKENBURG, acting by and through its MAYOR, and TOWN COUNCIL the ("Town")

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The Town is empowered by Arizona Revised Statutes Section 9-240 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.
3. Such project within the boundary of the Town has been selected by the Town; the survey of the project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.
4. Congress has authorized appropriations for, but not limited to, twelve eligible categories of transportation enhancement activities.
5. The State and the Town desire to participate in the design construction and maintenance of a new asphalt and concrete multi-use pathway (ADA compliant) along the north side of US 60 within State's right-of-way of Quartzsite-Wickenburg Highway from MP 106.1 to MP 107.6, a portion of which extends onto the Town's property (Sunset Park) at an estimated cost of \$670,264.00, hereinafter referred to as the "Project", for the benefit of the traveling public.

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NO. 26181  
Filed with the Secretary of State  
Date Filed: 07/21/03

Janice K. Brewer  
Secretary of State

By: Darryl D. Gruenewald

**Design Tracs No. H6222 01D, 01L**

Estimated Design Cost	\$ 88,993.00
Estimated Federal Aid Funds @ 94.3%	\$ 83,920.00
Estimated State Funds @ 5.7%	\$ 5,073.00

**Construction Tracs No. H6222 01C**

Estimated Construction Cost	\$569,484.00
Estimated Federal Aid Funds @ 94.3%	\$537,023.00
Estimated State Funds @ 5.7%	\$ 32,461.00

Federal Aid Funds @ 100% for Geotech Investigation	<u>\$ 11,787.00</u>
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**\*Total Estimated Cost of the Project** **\$670,264.00**

\*(includes construction engineering at 15% and change orders at 5%)

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

**II. SCOPE OF WORK****1. The State will:**

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction. Incorporate Town review comments as appropriate.

b. After the Town concurs with the plans, the Project will be constructed by the State, using federal and state funding.

c. Administer project and make all payments to the contractors. Be responsible for any contractor claims for extra compensation due to delays or whatever reason, attributable to the State.

d. Permit the Town rights-of-entry for maintenance and operation of the Project.

**2. The Town will:**

a. Review the design plans for the Project and provide comments. Grant the State the rights of entry to access lands required for State construction of the Project.

b. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid. Shall remove from the proposed right of way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, area and hereby certifies that all obstructions and encroachments have been or will be removed there from prior to the start of construction.

c. Provide funding in its annual budget, upon completion of the construction Project at its own cost for the maintenance and operations of the multi-use pathway. Be responsible for maintenance of landscaping which may include, but is not limited to, pavements, ramps, signs, pavement markings, newly established seeded areas, and the repair of seeded areas that erode or are otherwise damaged. Maintain and care for the damaged areas to the original grade and cover, including the filling and re-grading of gullies and ruts, elimination of compaction, reseeding, and re-mulching or other erosion control measures. Be responsible for all maintenance of landscaping that they install.

d. Not make any changes, additions or deletions without written approval of the State. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual".

e. Allow free public access to the Project improvements during normal business hours.

### **III. MISCELLANEOUS PROVISIONS**

1. The terms, conditions and provisions of this agreement shall remain in full force and effect until completion of said Project; provide however, that this agreement, except any provisions herein for maintenance which shall be perpetual, may be cancelled at any time prior to the award of a Project advertisement, with 30 days written notice to the other party. It is understood and agreed that, in the event this agreement is terminated by the Town, the State shall in no way be obligated to maintain said landscaping.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another entity.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 pertaining to State audit are applicable to this contract. In the event of such an audit, the Town will bear all costs associated therewith.

6. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds. Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

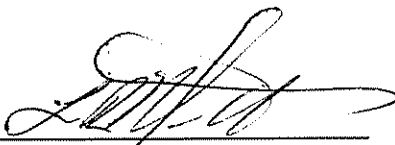
Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue - 616E  
Phoenix, AZ 85007

Town of Wickenburg  
Town Manager  
Wickenburg Town Hall  
155 N. Tegner St. Suite A  
Wickenburg, AZ 85390

10. In accordance with Arizona revised Statutes section 11-952, D, attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**TOWN OF WICKENBURG, ARIZONA**


By   
LON McDERMOTT  
Mayor

**STATE OF ARIZONA**

Department of Transportation

By   
SUSAN TELLEZ  
Contract Administrator

ATTEST:

By   
DONNA VIVONA  
Town Clerk

G:03-028-TEA-Wickenburg  
US 60 Multi-use Pathway Enhancements

18 June 2003 ly

RESOLUTION NO. 1431

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, COUNTY OF MARICOPA, ARIZONA, RESOLVING THAT THE TOWN OF WICKENBURG ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA, WHICH REQUIRES THE TOWN TO PROVIDE ONGOING MAINTENANCE TO A NEW ASPHALT AND CONCRETE MULTI-USE PATHWAY ALONG THE NORTH SIDE OF U.S. 60 WITHIN THE STATE'S RIGHT-OF-WAY FROM MP 106.1 TO MP 107.6 WITH A PORTION EXTENDING ON TOWN PROPERTY

WHEREAS, the Town is desirous of having a multi-use pathway on U.S. 60 along the Northside within the State of Arizona's right-of-way construction to begin at Milepost 106.1 to Milepost 107.6 in the Town of Wickenburg; and,

WHEREAS, the State of Arizona, by and through its Department of Transportation, has agreed with the need for such multi-use pathway and has, therefore, resolved through ADOT Resolution to enter into an Intergovernmental Agreement with the Town of Wickenburg to cause such design construction and maintenance with the Town of Wickenburg; and,

WHEREAS, the Intergovernmental Agreement to which this Resolution is attached sets forth the terms, provisions, and conditions along with the rights and obligations of the respective parties.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA, as follows:

1. The Intergovernmental Agreement attached hereto and to which this Resolution will be denoted as Exhibit "A" thereto, be and is hereby authorized, approved, and adopted.
2. The Common Council of the Town of Wickenburg authorizes the Mayor to enter into and otherwise execute the Intergovernmental Agreement.
3. The Town of Wickenburg agrees, and does by these presences, agree to be bound by all terms, provisions, and conditions of the Intergovernmental Agreement and to accept any obligations imposed upon it and accept the benefits gained therefrom.

APPROVED, PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE Town of Wickenburg, County of Maricopa, Arizona, this Seventh (7<sup>th</sup>) Day of July, 2003.

  
LON R. MCDERMOTT, MAYOR

ATTEST:

  
Donna Vivona, Town Clerk

APPROVED AS TO FORM:

  
Kelly Schwab, Town Attorney  
MARTINEZ & CURTIS, P.C.

NUMBER OF COUNCILMEMBERS PRESENT: 6

NUMBER OF VOTES FOR: 6

NUMBER OF VOTES AGAINST: 0

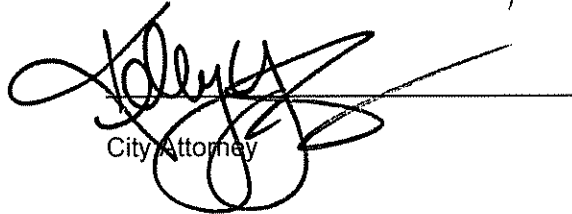
NUMBER OF ABSTENTIONS: 0

Date of Council Meeting Minutes Certification at which this Resolution was adopted: 7-9-03

APPROVAL OF THE TOWN OF WICKENBURG ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the STATE OF ARIZONA, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF WICKENBURG and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 7th day of July, 2003

  
City Attorney



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE 602.542.8855

TERRY GODDARD  
ATTORNEY GENERAL

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR03-0607TRN (JPA 03-028), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED July 15, 2003.

TERRY GODDARD  
Attorney General

A handwritten signature in cursive script, reading "Susan Davis", written over a horizontal line.

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

/ss

att.